

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>EQUAL EMPLOYMENT</b>	)	
<b>OPPORTUNITY COMMISSION,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>8:10CV318</b>
	)	
<b>V.</b>	)	
	)	
<b>JBS USA, LLC,</b>	)	<b>ORDER</b>
	)	
<b>Defendant.</b>	)	
	)	

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On December 31, 2010, Plaintiff Equal Employment Opportunity Commission (“EEOC”) filed a motion to bifurcate discovery and trial in this case ([filing 38](#)). Since the filing of the motion, the parties have agreed to bifurcate discovery and trial into two phases, Phase I (pattern or practice claims) and Phase II (individual claims and relief). The parties submitted a proposed bifurcation agreement along with their Rule 26 Planning Report and request that the court approve the proposed agreement. ([Filing 76-1 at CM/ECF pp. 1-7.](#)) The court will do so.

The parties’ proposed agreement does not, however, address the treatment of punitive damages. The parties cannot agree on whether punitive damages should be considered in Phase I or Phase II of the bifurcated proceeding. Consequently, in their proposed order, the parties have requested that the court rule on this issue. Accordingly, the court will proceed to rule on Plaintiff’s motion to bifurcate, but only to the extent the motion involves the question of how punitive damages should be handled in light of bifurcation.

Defendant asks that the parties be permitted to submit supplemental briefing addressing the question of how punitive damages should be handled. Because the court believes that the issue has been adequately briefed, Defendant’s request will be denied.

**IT IS ORDERED:**

1. The parties' agreement regarding bifurcation of discovery and trial, as set forth in [Filing 76-1 at CM/ECF pp. 1-7](#), is adopted and approved;
2. The court will rule on the EEOC's motion to bifurcate ([filing 38](#)), but only for purposes of addressing the issue of how punitive damages should be handled in light of the bifurcation of this proceeding;
3. Defendant's request for leave to submit supplemental briefing is denied;
4. Defendant's unopposed motion for leave to file a sur-reply in opposition to bifurcation ([filing 61](#)) is denied as moot.

May 26, 2011.

**BY THE COURT:**

**S/ F.A. Gossett  
United States Magistrate Judge**